

LAW OFFICES

COHN AND MARKS

RECEIVED

JOEL H. LEVY
ROBERT B. JACOBI
ROY R. RUSSO
RONALD A. SIEGEL
LAWRENCE N. COHN
RICHARD A. HELMICK
WAYNE COY, JR.
J. BRIAN DE BOICE

SUSAN V. SACHS
KEVIN M. GOLDBERG
JOSEPH M. DI SCIPIO

SUITE 300
1920 N STREET N.W.
WASHINGTON, D.C. 20036-1622

SEP 08 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

OF COUNSEL
MARCUS COHN
LEONARD H. MARKS
STANLEY S. NEUSTADT
RICHARD M. SCHMIDT, JR.

TELEPHONE (202) 293-3860
FACSIMILE (202) 293-4827
HOMEPAGE WWW.COHNMARKS.COM

DIRECT DIAL: (202)452-4831
INTERNET ADDRESS: rah@cohnmarks.com

September 8, 1999

VIA HAND DELIVERY

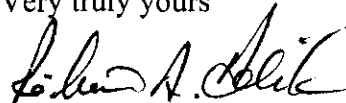
Ms. Magalie R. Salas
Secretary
Federal Communications Commission
Portals II, Filing Counter, TW-A235
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Gerald A. Turro
MM Docket No. 97-122**

Dear Ms. Salas

Submitted on behalf of Universal Broadcasting of New York, Inc. are an original and fourteen copies of a Motion for Extension of Time to File Exceptions to Initial Decision relating to the above-captioned proceeding.

Very truly yours



Richard A. Helmick

cc w/encl.: Parties on service list

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION **RECEIVED**
WASHINGTON, D.C. 20554**

SEP 08 1999

In re)	FEDERAL COMMUNICATIONS COMMISSION
)	OFFICE OF THE SECRETARY
GERARD A. TURRO)	
)	
For Renewal of License)	MM Docket No. 97-122
for FM Translator Stations)	
W276AQ(FM), Fort Lee, NJ, and)	File Nos. BRFT-970129YC
W232AL(FM), Pomona, NY)	BRFT-970129YD
)	
MONTICELLO MOUNTAINTOP)	
BROADCASTING, INC.)	
)	
Order to Show Cause Why the Construction)	
Permit for FM Radio Station WJUX(FM),)	
Monticello, NY, Should Not Be Revoked)	
To: The Commission		

**MOTION FOR EXTENSION OF TIME
TO FILE EXCEPTIONS TO INITIAL DECISION**

Universal Broadcasting of New York, Inc. ("Universal"), by its attorneys and pursuant to Sections 1.46 and 1.276 of the Commission's Rules, hereby requests grant of this Motion for Extension of Time to file its exceptions to the Initial Decision in the above-referenced proceeding.¹ Specifically, Universal requests that the time period for filing exceptions in this proceeding be extended for thirty days, from September 15, 1999, to October 15, 1999.² In support of such request, the following is set forth.

¹ See In re Gerard A. Turro, *Initial Decision of Administrative Law Judge Arthur I. Steinberg*, MM Docket No 97-122, File Nos. BRFT-970129YC, BRFT-970129YD (rel. Aug. 16, 1999).

² Pursuant to Section 1.276(a)(1) of the Commission's rules, the current due date for filing exceptions is September 15, 1999.

1. The Initial Decision in this proceeding was released on August 16, 1999, more than sixteen months after the parties filed their reply findings of fact and conclusions of law on April 3, 1998. The release date of the Initial Decision, while awaited with anticipation, could not have been reasonably foreseen by Universal or its counsel and, regrettably, previously scheduled family vacations as well as attendance at the NAB Radio Show in Orlando, Florida, from August 31 to September 3, 1999, required one or more of Universal's counsel to be away from the office during the time for preparing exceptions.

2. Furthermore, Bureau counsel was out of the office on vacation from August 17-30, and was not available to Universal's counsel for purposes of coordinating the filing of exceptions. Given these unanticipated scheduling conflicts, Universal's counsel has not had sufficient time to prepare its exceptions. Universal has contacted Bureau counsel with respect to this extension request and the Bureau has stated that it fully supports the requested extension of time.

3. Moreover, Universal has retained additional counsel, Dow, Lohnes & Albertson, to assist in preparing its exceptions to the initial decision. Because Universal's additional counsel did not participate in the hearing and because the aforementioned scheduling conflicts have limited the opportunity for consultation, the requested short extension of time will permit appropriate review of the extensive record of this proceeding (that record consists, in part, of over 2,000 pages of transcript as well as extensive exhibits) and preparation of comprehensive exceptions.

4. Finally, and most importantly given Commission policy that extensions of time will not be routinely granted, the requested short extension of time is in the public interest as this proceeding involves important policy issues for the broadcast industry and not just the parties at

interest. For example, the Initial Decision gives approval to a time brokerage arrangement between an FM station licensee and an operator of FM translator stations whose coverage contours extend beyond the protected contour of the primary commercial FM station, whereas this arrangement is specifically precluded by Section 74.1232 (d) of the Commission's Rules; indeed, the Commission's Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing in this proceeding explicitly affirmed the Bureau's April 5, 1996, letter ruling (which was not appealed by either Turro or Monticello Mountaintop Broadcasting, Inc.) that such an arrangement violates Section 74.1232 (d) of the Rules. 12 FCC Rcd 6264, 6269 at n. 13.

5. Moreover, as this proceeding involves a situation where the FM translator operator provides virtually all the programming of the primary FM station and directs that programming, in large part, to the areas served by the translator stations rather than the area served by the primary FM station, you have the anomalous result that the FM translator operator is producing and indirectly originating the programming broadcast by the primary station (and rebroadcast by the FM translator stations), whereas Section 74.1231 (g) of the Rules essentially prohibits an FM translator operator from originating any programming for direct broadcast by translator stations.

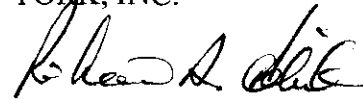
6. Based on the record in this proceeding, Universal submits that the FM translator stations at issue are essentially functioning as low power FM stations, a misuse of the retransmission purpose of FM translator stations; more importantly, in addition to the issue of the proper role or use of FM translator stations, the Commission is currently considering, in MM Docket No. 99-25, the licensing of low power FM stations and the instant proceeding raises policy issues which impact the potential creation of a low power FM radio service.

7. Accordingly, based on the foregoing, Universal respectfully requests a thirty day extension of time for filing its exceptions to the Initial Decision in the above-referenced proceeding.

Respectfully submitted,

UNIVERSAL BROADCASTING OF
NEW YORK, INC.

By: _____



Roy R. Russo
Richard A. Helmick
COHN AND MARKS
1920 N Street, N.W.
Suite 300
Washington, DC 20036

Michael D. Hays
John S. Logan
DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, NW
Washington, D.C. 20008
(202) 776-2000

Its Attorneys

September 8, 1999

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, an administrative assistant in the law firm of Cohn and Marks, hereby certify that I have, this day, September 8, 1999, by hand delivery, sent a copy of the foregoing MOTION FOR EXTENSION OF TIME TO FILE EXCEPTIONS TO INITIAL DECISION to the following:

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, DC 20554

The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington, DC 20554

The Honorable Susan Ness
Commissioner
Federal Communications Commission
445 12th Street, S.W., Room 8-B115
Washington, DC 20554

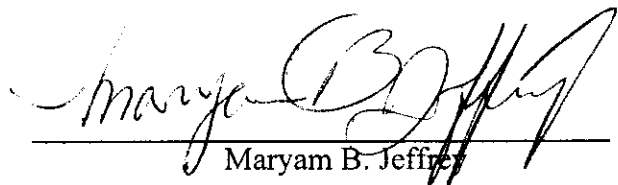
The Honorable Michael Powell
Commissioner
Federal Communications Commission
445 12th Street, S.W., Room 8-A204
Washington, DC 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, DC 20554

Alan E. Aronowitz, Esq.
Hearing Branch Enforcement Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 3-A460
Washington, D.C. 20554

Alan Y. Naftalin, Esq.
Charles R. Naftalin, Esq.
Koteen & Naftalin
1150 Connecticut Ave., N.W.
Washington, D.C. 20036
Counsel for Gerard A. Turro

James P. Riley, Esq.
Fletcher Heald & Hildreth, P.L.C.
1300 North 17th Street
11th Floor
Rosslyn, VA 22209
Counsel for Monticello Mountaintop
Broadcasting, Inc.


Maryam B. Jeffrey